

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Laura BORSI et al.

Examiner: BRISTOL, LYNN ANNE

Serial No.: 10/507,178

Group Art Unit: 1643

Filed: MAY 28, 2002

Confirmation No.: 4401

Title: **SELECTIVE TARGETING OF TUMOR VASCULATURE USING ANTIBODY MOLECULES**

RENEWED PETITION UNDER 37 CFR 1.137(B)

Office of Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

It is respectfully requested that the Commissioner, through the honorable group Director, overturn the petition decision mailed July 28, 2009, which dismissed Applicants' petition for revival of the above-identified application without prejudice or disclaimer.

STATEMENT OF FACTS

In the petition filed September 21, 2007, Applicants requested revival of the above-identified application, which was unintentionally abandoned due to failure to timely respond to the Notice of Missing Parts mailed February 12, 2007. The petition was accompanied by an authorization to charge the requisite fee(s), a sequence listing, and a Reply to the notice. The Reply included an amendment of the specification to incorporate the sequence identifier numbers (SEQ ID NOs) of the recited sequences. The electronic copy of the sequence listing and the scanned PDF copy thereof were both entered and made available via USPTO's Patent Application Information Retrieval (PAIR) system on September 21, 2007. Presently, the electronic copy of the sequence listing appears as "version 1" under "Supplemental Content" in the USPTO PAIR, while the paper copy is viewable as a PDF document under the Image File Wrapper (IFW).

On October 17, 2007, the USPTO alleged that the presence of headers (such as "TITLE OF THE INVENTION") in the revised sequence listing rendered it defective. The Computer Readable Form (i.e., a printout by the reviewer) appears on the IFW, however since the printout was not dispatched with a standard letter (for example, Notice of Non-compliant Sequence Disclosure).

The petition decision mailed July 28, 2009 upholds this incorrect assertion of defective sequence listing and further states that the “sequence listing could not be accepted.”

RELIEF REQUESTED

It is respectfully requested that:

1. The petition decision mailed July 28, 2009 be overturned; and
2. Applicants’ petition for unintentional abandonment be granted.

Compliance of the sequence listing

Contrary to the USPTO’s contentions in the Notice mailed October 16, 2007, the revised sequence listing filed September 21, 2007 does not contain any headers. Moreover, the recited sequences are fully supported by the disclosure in the specification, does not introduce new matter and the sequence listing thus prepared and submitted complies with the rules. As such, the USPTO’s allegations of defective sequence listing are without merit and should be withdrawn.

Timely response to USPTO Notice

It is further submitted that the Computer Readable Form, which was uploaded on the IFW on October 16, 2007 was never received by the Applicant. Enclosed is a docket report for November 16, 2007. Also enclosed is a docket printout from counsel’s computer docketing system for attorney docket number ELLIS-0001 (instant application). There is no docket entry for receipt of any USPTO communication on or near October 15, 2007 for the case, nor is there any docketed due date for responding to any USPTO communication on or around November 15, 2007. Further, even if a Notice had been sent out, the misplaced assertion of defective sequence listing, which is the basis for the petition decision, renders the withholding of abandonment moot.

Therefore, it is submitted that ample basis to overturn the petition decision exists, and the same is respectfully requested.

No fees are believed to be due with this response; however, the Commissioner is hereby authorized to charge any additional fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,

/Sagun KC/

Sagun KC, Reg. No. L0510
For Applicant(s)

/Anthony J. Zelano/

Anthony J. Zelano, Reg. No. 27,969
Attorney for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: ELLIS-0001

Date: September 11, 2009